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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/596,151	06/01/2006	Robert Manzke	PHIDE030411US	2812
38107 7590 01/22/2009 PHILIPS INTELLECTUAL PROPERTY & STANDARDS 595 MINER ROAD CLEVELAND, OH 44143				
EXAMINER CORBETT, JOHN M				
ART UNIT		PAPER NUMBER		
2882				
MAIL DATE		DELIVERY MODE		
01/22/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Advisory Action  
Before the Filing of an Appeal Brief**

**Application No.**

10/596,151

**Applicant(s)**

MANZKE ET AL.

**Examiner**

JOHN M. CORBETT

**Art Unit**

2882

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 22 December 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 1-20.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☒ Other: See Continuation Sheet.

/Edward J Glick/  
Supervisory Patent Examiner, Art Unit 2882

/John M Corbett/  
Examiner, Art Unit 2882

Continuation of 11, does NOT place the application in condition for allowance because:

With respect to at least claim 1, the Applicant argues that Flohr et al. fails to disclose the claimed limitation of step e). The Examiner disagrees. In response, Examiner directs the Applicant to the response to arguments with respect to at least claim 1 as noted in the Final Office Action mailed 28 October 2008. As noted in this response, the Applicant's arguments were not persuasive. Therefore, the claims remain rejected.

The Examiner also notes that Applicant further argues in support of their position that Flohr et al. discloses determining from images generated with data from a time interval of a single corresponding heart cycle. As such, the Applicant implies that the claim requires the determining by applying a similarity measure between images from different heart cycles. In response, the Examiner notes that the features upon which applicant relies (i.e., similarity measure applied between images from different heart cycles) is not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims.

With respect to claims 19 and 20, the Applicants argue that Okerlund et al. fails to teach the time interval is selected such that a similarity measure between two consecutive images for two different time periods satisfies. The Examiner disagrees. Okerlund et al. teaches the substitute image set selected is determined by a registration process between the first adjacent image set with each of the second adjacent images sets. The second adjacent image set that most closely registers (satisfies) with the first adjacent image set is selected as the second adjacent image set. This selected second image set then replaces the corresponding image set in the working set to create the modified working set (Col. 10, lines 49 - Col. 11, line 18). The second image sets from which the substitute image set is selected correspond to different times (Figures 5-6). The selecting of the second image set is a selecting of a time interval. Okerlund et al. does teach the time interval is selected such that a similarity measure between two consecutive images for two different time periods satisfies. Therefore, the Applicant's arguments are not persuasive and the claims remain rejected.

With respect to claims 19 and 20, the Applicants argue that Grass et al. fails to disclose the time interval is selected such that a similarity measure between two consecutive images for two different time periods satisfies. The Examiner disagrees. Grass et al. discloses automatic selection of the best phase for cardiac reconstruction by applying similarity measures to low-resolution volumetric data sets. The phase selected is the one in which the motion maps generated from applying similarity measures indicate (satisfy) optimal phase points for motion free reconstruction (Abstract). The phase points correspond to different times. The selecting of the optimal phase point is a selecting of a time interval. Grass et al. does disclose the time interval is selected such that a similarity measure between two consecutive images for two different time periods satisfies. Therefore, the Applicant's arguments are not persuasive and the claims remain rejected.

Continuation of 13. Other: Applicant's arguments, see Page 9, lines 6-8, filed 22 December 2008, with respect to the objection of claim 14 have been fully considered and are persuasive. The objection of claim 14 has been withdrawn..